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## Viewing cable 09SOFIA133, BULGARIA'S JUDICIARY: WEAKEST LINK IN A POORLY

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### Understanding cables

Every cable message consists of three parts:

- The top box shows each cables unique reference number, when and by whom it originally was sent, and what its initial classification was.
- The middle box contains the header information that is associated with the cable. It includes information about the receiver(s) as well as a general subject.
- The bottom box presents the body of the cable. The opening can contain a more specific subject, references to other cables ([browse by origin](#) to find them) or additional comment. This is followed by the main contents of the cable: a summary, a collection of specific topics and a comment section.

To understand the justification used for the classification of each cable, please use this [WikiSource](#) article as reference.

### Discussing cables

If you find meaningful or important information in a cable, please link directly to its unique reference number. Linking to a specific paragraph in the body of a cable is also possible by copying the appropriate link (to be found at the paragraph symbol). Please mark messages for social networking services like Twitter with the hash tags **#cablegate** and a hash containing the reference ID e.g. **#09SOFIA133**.

Reference ID	Created	Released	Classification	Origin
<a href="#">09SOFIA133</a>	<a href="#">2009-03-30 07:28</a>	<a href="#">2011-08-30 01:44</a>	<a href="#">CONFIDENTIAL</a>	<a href="#">Embassy Sofia</a>

Appears in these articles:

<http://www.bivol.bg/wllegalbg.html>

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PP RUEHDBU RUEHFL RUEHKW RUEHLA RUEHNP RUEHROV RUEHSR  
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TO RUEHC/SECSTATE WASHDC PRIORITY 5866  
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY  
RUEAHL/HOMELAND SECURITY CENTER WASHINGTON DC PRIORITY  
RUEATRS/DEPT OF TREASURY WASHINGTON DC PRIORITY  
RHMCSUU/FBI WASHINGTON DC PRIORITY 0246

C O N F I D E N T I A L SECTION 01 OF 02 SOFIA 000133

SENSITIVE  
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SUBJECT: BULGARIA'S JUDICIARY: WEAKEST LINK IN A POORLY  
PERFORMING LEGAL SYSTEM

¶1. (C) Summary. On paper, Bulgaria's judiciary system meets most international and EU standards. But in practice, it is in shambles. Polls show that within the EU, Bulgarians have the least confidence in public institutions, with the judicial system at the bottom of the heap. The police and investigative service have 14 percent approval, prosecutors 13 percent, and, shockingly, judges 12 percent. Key reasons for distrust: excessively long trials with unpredictable outcomes, even with the best evidence at hand; and known criminals flaunting their impunity. A running joke is that OC figures do not even need a good defense attorney; bribing (or intimidating) a judge is cheaper. Bulgarians and international partners continue to demand tangible results, especially a groundbreaking conviction of an organized crime figure or corrupt political figures and senior public officials. But expectations are low. Many critics believe the judicial system will not change without a purge of the old guard, which remains beholden to the gray economy and political interests. End Summary.

#### Long Road of Reform, with Limited Impact On Delivering Justice

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¶2. (C) On paper, the judicial system meets many international and EU norms. Following communism's collapse, Bulgaria painfully revamped its judicial and legal systems, but many old features remained intact. Many reforms streamlined internal management and other mechanical, procedural, or training issues. In the five years preceding EU accession, the Bulgarian government rushed many more changes, adopting constitutional and legislative amendments to ensure the independence of the judiciary and improve its functioning, but some changes were not well thought out. Among the more notable changes: defining the role of the Supreme Judicial Council (SJC) and establishing an inspectorate within the SJC to investigate misconduct allegations and recommend disciplinary actions. The government made modest improvements to the Criminal Procedure Code and adopted a new Civil Procedure Code to reduce opportunities for continuances in civil cases.

¶3. (SBU) Over the past decade, the government also took key personnel steps: increasing salaries to an average of around 1,200 leva (more than twice the 2008 average salary of 524 leva and sufficient to attract qualified personnel); establishing competitive hiring and promotions; and limiting immunity for magistrates. With support from USAID, the government developed the National Institute of Justice to train magistrates (judges, prosecutors, and investigators) and thirty-two model courts adopted improved court procedures. The courts also implemented random case assignment, which reduced the opportunities for manipulation of the system. Major undertakings also included the introduction of: separate administrative courts to address appeals of government decisions, a separate business registry system outside the courts, and private bailiffs to improve enforcement of court decisions. Along the way, the Bulgarians received over \$7.5 million in EU pre-accession funds (PHARE), with the biggest donors being Austria, the United Kingdom, and Spain, for code reform and judges, training. The United States provided approximately \$22 million to the judiciary to support reforms.

#### Key Challenges

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¶4. (C) The most basic problem in the judiciary system is the hardest to tackle: lack of political will to make tough decisions. Police, prosecutors and judges routinely play a finger-pointing, blame-laying game. Ordinary Bulgarians see judges as the biggest stumbling block to convictions in high profile cases. Beyond political will is structure and process. The judicial system is highly formalistic; it has confusing and at times contradictory precepts and procedures. Courts are often idiosyncratic and ego-driven. Management of each court is largely based on the personality and

leadership style of the court chair, appointed by the Supreme Judicial Council (SJC) for five years. In a court system governed by seniority, younger and more reform-minded court chairs are hard to find. It is extremely difficult to purge the system of the old guard, who after five years of service as judges are tenured and cannot be removed until they resign, retire at the age of 65, or are dismissed for criminal activity, inability to perform their duties, or conduct damaging the prestige of the judiciary.

15. (SBU) From 2000 to 2008, the number of judges increased 15 percent, reaching levels comparable to other newer EU members, but often judges had inadequate training, seasoning, or background. Appointments sometimes depended more on personal and political connections rather than professional qualifications. Despite the increase in judges, case completion rates stayed static, exacerbated by the shortage of courtrooms and the uneven distribution of cases. During that time, investments in the judicial sector increased from 0.2 percent in 2001 to 0.8 percent. The court system now consists of 2,370 judges in 182 courts, including regional courts, district courts, appellate courts, the Supreme Court of Cassation and the Supreme Administrative Court. In the biggest court in the country, Sofia Regional court, 100 judges are housed in a building once planned for a prison, far exceeding its capacity. In 2008, a civil judge in that court reviewed on average 700 civil cases and a criminal judge reviewed 430 cases.

16. (C) An overly formalistic Criminal Procedure Code means any defendant with a reasonably competent defense attorney can avoid sentencing. All too often, judges accede to defense requests to delay hearings. The case of the notorious OC figures the Margini brothers, arrested in October 2005 on the eve of EU accession for contract killings and money laundering, is an example. With 18 continuances, mostly for purported illnesses, the Margini brothers continue to enjoy their lives while on bail. Throughout the system, the most common excuses for continuances are: unavailability of the defense attorney, irregularities in the summoning, and multiple requests for expert opinions. A new cottage industry has sprung up: closely watching court proceedings and counting the continuances in the document fraud and EU agricultural funds abuse case against Mario Nikolov, whose company is rumored to have bankrolled the Bulgarian Socialist party.

17. (C) Problems are also prevalent in lower profile fields. Bulgarian administrative judges have sway over key public sector and public integrity decisions important to business -- they rule on appeals of public procurements, government-awarded contracts for mining, use of dams, beaches and other natural goods. Some judges are on personal terms with key gray economy figures, who have increasingly moved into legitimate businesses. Ample anecdotal evidence substantiates cases of flagrant abuses and conflicts of interests: participating in known illegal schemes; deciding on cases involving their family members; and deciding cases involving their business associates. Privately, judges routinely acknowledge that some of their colleagues accept bribes, but in a culture where colleagues are hesitant to punish colleagues, they refuse to name names.

18. (C) The SJC, which has the power to appoint, discipline and dismiss judges, has been slow to establish discipline in the system. Many question the SJC's structure and argue that political appointments within the SJC allow for political interference. After a highly politicized process to select members of the SJC and some initial false starts, the SJC reviewed 102 requests for disciplinary sanctions in 2008, including 16 initiated by the Inspectorate. Between 2008 and early 2009, the SJC dismissed four judges, two for drunk driving, including a vehicular death; one on charges of conspiracy to defraud the state revenue; and one for abuse of position. Given the scale of observable problems, this amounted to a rather thin record of oversight and accountability. This year the SJC faces another critical challenge as the mandates of 162 magistrates in management

positions throughout the system (108 judges, 32 prosecutors, and 22 investigators) expire between April and December 2009 and the SJC appoints their replacements.

¶10. (C) Comment. With national elections on the horizon, the prospect for immediate legislative action to correct and reform the judicial system is dim. Realistically, substantive change will be the province of a new government.  
End Comment.  
McEldowney